

2. By this criminal application, the applicant has challenged the order dated 12.6.06, by which the revision filed by the applicant was rejected confirming the order of the learned Magistrate. The applicant's application for issuance of summons to the defence witnesses was rejected by the learned Magistrate. Paragraphs 8 to 12 of the impugned judgment dated 12.6.2006 reveal that the case was filed in 1999 and the summons was served on the accused in June, 2000. Thereafter, the case proceeded till recording of the statement of the applicant under section 313 of Cr.P.C. It is pertinent to note that in the statement under section 313 the applicant has categorically stated that he does not wish to examine any defence witness. It also appears that the

applicant at one stage was directed to keep his witnesses present, however, he himself remained absent on the date of hearing and also did not keep his witnesses present. It is against this backdrop, the application for issuance of summons to his witnesses has been dealt with and rejected by the courts below. The applicant did not disclose at any earlier stage that his cheque-book had been stolen away on 11.8.1999 for which he had lodged a complaint on 5.7.2000. No such case was put to the witnesses examined by the complainant during their cross-examination. The Bank Manager, to whom the accused desires to examine as his witness, was examined by the complainant. However, no such case was put even to the Bank Manager while he was being cross-examined by the applicant. The applicant also desires to examine a police constable of the concerned police station to establish that he had lodged a complaint on 5.7.2000. By examining this witness, the applicant would be, at the most, able to establish that such complaint was lodged and nothing more. It is pertinent to note that the complaint of theft of the cheque-book, which occurred on 11.8.1999, was not lodged till 5.7.2000. That lapse has rightly influenced the learned Sessions Judge to draw an inference that making an application for issuance of summons in 2005 to his witnesses is nothing but one more attempt or effort to protract the trial. It is

against this backdrop, the learned Sessions Judge in paragraphs 11 and 12 of the judgment has rightly observed that no purpose will be served by examining the defence witnesses, as prayed for, by the applicant. The Sessions Court, after considering the overall facts and circumstances of the case, in my opinion, has rightly rejected the application. I find no reason to interfere with the impugned order passed by the courts below. The application, therefore, fails and is dismissed as such.

(D.B.BHOSALE, J.)